

UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S):	Gailus, et. al	GROUP ART UNIT:	2614
APPLN. NO.:	09/933,364	EXAMINER:	Hashem, Lisa
FILED:	August 20, 2001	Confirmation No.:	7135
TITLE:	A FEEDBACK LOOP WITH ADJUSTABLE BANDWIDTH		

DECLARATION UNDER 37 C.F.R. § 1.131

This declaration is being filed electronically

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. We, Paul H. Gailus, Manuel Gabato, Kevin McCallum, and Jeff Wilhite are inventors of the present application and hereby make this declaration.
2. The subject matter of Claims 1, 2, 4-9, 11, 13-18, 20 and 22 of the instant patent application stand subject to a rejection under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,859,097 filed on May 14, 2001 entitled "Radio Frequency Feedback Amplifier circuits" to Chandler (Chandler patent).
3. This declaration is submitted to establish the conception of the subject matter of the rejected claims prior to the effective date (May 14, 2001) of the Chandler patent coupled with due diligence from prior to said effective date to a subsequent reduction to practice.
4. The subject matter of the rejected claims was conceived in the United States or other provincial region permitted by the Rule (37 C.F.R. 131) before the effective date (i.e., May 14, 2001) of the Chandler patent.
5. An Interoffice Correspondence was transmitted between the inventors on January 10, 2000, which provided a block diagram on page 2 disclosing the subject matter of the rejected claims and disclosing inclusion of such subject matter in baseband circuitry for a new Javelin IC to be developed by Motorola Inc., the assignee of the instant patent application.

6. An initial development stage of the Javelin IC spanned a timeframe from December 1999 through September 2000 during which time numerous aspects of the IC were designed including the subject matter of the rejected claims (*see* the “Zero Ckt” entry in “BBGAIN” section of the attached document titled “Javelin IC Development Schedule” dated May 8, 2000).

7. The subject matter of the rejected claims was the subject of a written disclosure (ID No. 4766 H) prepared after conception, and on July 10, 2000 the invention disclosure was submitted to a patent committee of Motorola Inc., the assignee of the instant patent application, for the purpose of documenting and evaluating invention disclosures for patent protection. The attached written invention disclosure, ID No. 4766 H, is a true copy of the original written invention disclosure on which the instant patent application is based.

8. The subject matter of “the at least one adjustable pole element comprises two adjustable pole elements” as described in claim 11 of the instant patent application, although not documented in the written invention disclosure ID. No. 4766H submitted to the Motorola patent committee, was conceived in the United States or other provincial region permitted by the Rule (37 C.F.R. 131) before the effective date (i.e., May 14, 2001) of the Chandler patent.

9. Upon conclusion of this initial development phase for the Javelin IC, a formal design review was conducted including review of the programmable loop response of a programmable Cartesian Feedback System and accompanying simulation results based on the subject matter of the rejected claims (*see* attached pages 3, 4 and 10 of a power point presentation for the Javelin IC dated September 25, 2000).

10. Subsequent to the formal design review, the Javelin IC layout design began and was completed on May 1, 2001, including the layout for the subject matter of the rejected claims that was completed by March 31, 2001 (*see* baseband gain block on page 4 and mixer baseband on page 8 of the attached document labeled Design/Layout for Javelin 1 IC).

11. Subsequent to May 1, 2001, some additional simulations and verifications to meet manufacturer submission requirements were completed prior to submitting a database to the manufacturer on September 12, 2001 to begin manufacture of a first prototype of the Javelin IC, which included the subject matter of the rejected claims (*see* the attached document titled PIPO Summary Report File, item 40 on page 2).

12. The first prototype was received from the manufacturer no later than four months from the date of submission of the database to the manufacturer or no later than January 12, 2002.

13. The claimed subject matter of the rejected claims was conceived, submitted to the patent committee of Motorola, scheduled for a review by an administrator, reviewed and discussed by the patent committee to pursue patent protection, and reduced to practice via IC design, layout and prototype manufacture, where these tasks were all performed with diligence from a time prior to the May 14, 2001 effective date of the Chandler patent to the reduction of practice of the subject matter of the instant United States patent application, including the subject matter of the rejected claims.

All of the attached documents are true and accurate copies. All of the above statements made of our own knowledge are true and all statement made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of this application or any patent issuing thereon.

SIGNATURES:

Paul H. Gailus

Date

Manuel Gabato

Date

Kevin McCallum

Date

Jeff Wilhite

Date